



FEDERAL LEGISLATION WORKING GROUP MEETING 7/13/22

Agenda

1. Administration Activities
2. Implications of West Virginia V EPA Ruling
3. Legislative Updates
4. Other Updates

Notes

1. Administration Activities

The U.S. Department of Energy (DOE) on Monday June 13 [proposed new energy efficiency standards](#) for residential gas furnaces. If finalized on DOE's proposed schedule, the new rule would go into effect in 2029 and require gas furnaces to be 95% fuel efficient.

- Utility Dive [reported](#) this effort could shift 9% of US customers to electric heat.
- The DOE [stated](#) the effort is "part of 100 energy-efficiency actions the Administration is completing this year to save the average family \$100 a year."

DOE on Wednesday June 15 [released](#) a strategy "to provide a framework for enhancing engineering training, tools, and practices to build resilient clean energy systems designed to withstand cyber threats." The [National Cyber-Informed Engineering Strategy](#) is a congressionally directed strategy to provide guidance on cybersecurity technology throughout the lifecycle of grid development.

On June 17, DOE [announced](#) that Lennox International became the first partner in the DOE's [Cold Climate Heat Pump Technology Challenge](#) to develop a heat pump that can more effectively heat homes in "northern climates".

On July 6, DOE announced \$2.3 billion (divided equally over 5 years) in funding for States, Tribal nations, and territories through a formula grant program with the focus on strengthening and modernizing the US's power grid. The program established is called the [Preventing Outages and Enhancing the Resilience of the Electric Grid](#) program and it will be administered by the [Building a Better Grid Initiative](#). Applications due at the end of September, 2022.

2. Implications of West Virginia VS EPA Ruling

Overview of ruling:

On June 30, the Supreme Court ruled on West Virginia VS EPA in a 6-3 [decision](#) that the EPA lacked the authority (under Sec. 111 of the Clean Air Act) to set an emissions cap for GHGs based on generation shifting. The opinion holds

significant challenges and legal hurdles for the US's (and President Biden's) climate and clean energy agenda.

Chief Justice Roberts applied the "[major questions doctrine](#)" - explaining Congress must clearly authorize the EPA to cap CO2 emissions at a level significant enough to "force a nationwide transition away from the use of coal to generate electricity," which the Court claimed the Clean Power Plan would have done.

The Supreme Court's opinion focuses on one aspect of the CPP: the consideration of generation shifting of fossil fuel power plants to reduce the sector's emissions of CO2. The Obama and Biden administrations, as well as stakeholders, argued this method resulted in cost-effective emission reductions consistent with EPA's authority to determine the "best system of emission reduction". They explained that generation shifting is a long-established tool used to reduce emissions. The petitioners, however, characterized generation shifting as EPA "reordering the energy system".

What the Ruling Translates Into (Federally):

Though the Supreme Court's opinion will result in significant legal and political challenges for future climate and clean energy initiatives, the EPA still has some tools:

- The Court does not foreclose the possibility of beyond-the-fenceline regulation under Sec 111(d), which could include setting a standard based on the operation of a technology but allowing sources to trade with other sources to demonstrate compliance.
 - AKA: This could include increasing the efficiency of power plants through heat rate improvements, or co-firing with low-carbon fuels and carbon capture and sequestration.
- The opinion also states that a rule could be acceptable even if it "may end up causing an incidental loss of coal's market share".
 - AKA: the EPA can probably still tighten other regulations, such as ones governing ozone, particulate matter and coal ash, that may have the effect of lowering carbon emissions by driving more coal-fired power plants to retire.

What the Ruling Translates Into (State-wise):

The Supreme Court's ruling does not impact states' abilities to legislate/regulate their own carbon emissions. In fact, as several syndicates have reported, there is an anticipated swing in the political majority in Congress - adding to the challenges at addressing climate change and energy at the federal level.¹

3. Legislative Updates

On June 20, the Energy and Water Development subcommittee held a markup on the [Energy and Water Development and Related Agencies funding bill](#) text, which would raise funding for the Energy Department to \$48.2 billion — a \$3.3 billion increase from FY 2022.

¹ <https://www.politico.com/news/2022/06/30/what-can-democrats-do-on-climate-00043530>

That includes \$15 billion in additional loan authority for the Title 17 innovative technology loan guarantee program under the Loan Programs Office. And, following Biden's plan to stimulate clean energy manufacturing, House appropriators aim to provide \$100 million for use of the Defense Production Act within DOE's authority to accelerate domestic production of equipment like solar panels and transformers.

- The following week, the House Appropriations Committee approved the bill 32-24.
- [Next week](#) (week of July 18) the House is expected to take up this, among other, appropriations bills.

June 22, the House Energy and Commerce Committee's energy subpanel held a hearing to dive into energy infrastructure and efficiency legislation. Of six bills, [H.R. 7947 \(117\)](#) was heard, which intends to create a DOE weatherization program.

IJA: Several resources regarding Sec. 40101(D) Formula Grants to States & Indian Tribes were updated. You can find more [here](#). This includes opportunities for microgrids.

Reconciliation updates:

- Updates on specifics are minimal - negotiations are occurring, but are occurring behind closed doors. Updates below are based on what has been reported and hearsay - these updates should be considered a snapshot in time:
 - It has been [reported](#) that Sen. Energy Chair Joe Manchin isn't keen on direct pay in Democrats' climate and clean energy tax package. Manchin and Sen. Majority Leader Chuck Schumer have been huddling privately for weeks on a party-line bill for the summer, and Manchin continues to fret over the inflation implications of pumping more money into the economy.
 - Expectations continue that the bulk of the package would be funded through tax-related functions, however, this funding pot is expected to shrink significantly with a potentially outsized impact (reduction) on energy and environment provisions.
 - Non-tax-related efforts have a greater chance of "making it through."

3. Other Updates

EESG's monthly regional group call for July was held on July 11, many of its updates have been incorporated into the updates above.

Next Meeting

Our next Federal MWG meeting will be on Wednesday August 10 at **8:15 am**. Call-in coordinates are below.

[Zoom link](#)

Call-in: +13126266799,,83592457581#

Passcode: cedmc2022